

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE ANNUITY, WELFARE and APPRENTICESHIP SKILL IMPROVEMENT & SAFETY FUNDS of the INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 15, 15A, 15C AND 15D, AFL-CIO, by its TRUSTEES JAMES T. CALLAHAN, WILLIAM H. HARDING, FRANCIS P. DIMENNA and ROBERT SHAW, and JOHN and JANE DOE, as Beneficiaries of the THE ANNUITY, WELFARE and APPRENTICESHIP SKILL IMPROVEMENT & SAFETY FUNDS of the INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 15, 15A, 15C AND 15D, AFL-CIO,

Plaintiffs,  
-against-

06 Civ. 0781 (RJH)

**ORDER**

NEW YORK RECYCLING, INC.,

Defendant.

On November August 2, 2007, Magistrate Judge Theodore H. Katz issued a Report and Recommendation (“Report”) recommending that this Court award plaintiffs attorneys’ fees and costs in the amount of \$1,842.50 but deny plaintiffs’ request for an award of damages because Judge Katz found there was no evidence to support any damages to which plaintiffs may be entitled. The Court has received no objections to the Report.

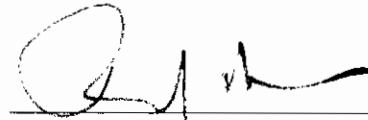
The district court adopts a Magistrate Judge’s report and recommendation when no clear error appears on the face of the record. *See Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). However, the court is required to make a *de novo* determination of those portions of a report to which objection is made, 28 U.S.C. § 636(b)(1)(C), by reviewing “the Report, the record, applicable legal authorities, along with Plaintiff’s and Defendant’s objections

and replies.” *Badhan v. Lab. Corp. of Am.*, 234 F. Supp. 2d 313, 316 (S.D.N.Y. 2002). The court may then accept, reject, or modify in whole or in part recommendations of the Magistrate Judge. *See Nelson*, 618 F. Supp. at 1189. If a party fails to object to a report within 10 days of being served with the report, that party waives their right to object and appellate review of the district court’s decision adopting the report, absent unusual circumstances, is precluded. *See United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997).

The Court finds that no clear error appears on the face of the record and hereby adopts the Report, which is attached to this opinion for ease of reference. The Court grants attorneys’ fees and costs in the amount of \$1,842.50. The Court further denies plaintiffs’ request for an award of damages. The Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: New York, New York  
September 4, 2007



Richard J. Holwell  
United States District Judge